



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

: Confirmation No. 6906

Kenichi MATSUNAGA

: Attorney Docket No. 2003\_1579A

Serial No. 10/695,762

: Group Art Unit 1655

Filed October 30, 2003

: Examiner K. C. Srivastava

CANCER PREVENTATIVE  
AGENT AND FOOD

RESPONSE TO RESTRICTION

THE COMMISSIONER IS AUTHORIZED  
TO CHARGE ANY DEFICIENCY IN THE  
FEES FOR THIS PAPER TO DEPOSIT  
ACCOUNT NO. 23-0975

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

In response to the Restriction Requirement dated March 28, 2006, Applicant hereby elects the invention identified as Group I, containing claims 1, 2, 4 and 5.

Election is made with traverse.

In this regard, the invention of Group II is said to be directed to a particular strain of *Tircholoma matsutake*. However, it should be noted that claim 3 is not directed to a strain but rather a cancer preventative agent employing the strain, which agent is within the genus of Group I.

Further, Group III is directed to a cancer preventative agent according to claim 1 wherein the agent is a colon cancer preventative agent, again within the scope of Group I.

Thus, Groups II and III should be examined with Group I, since Groups I to III are not independent and distinct inventions.

Moreover, all of claims 1 to 6 are readable on the elected subject matter.

Similarly, all of claims 8 to 13, directed to a food composition to prevent cancer i.e. Group V, are also readable on the elected subject matter and are properly examined therewith.

In sum, Groups I, II, III and V do not constitute independent and distinct inventions and should be examined together.

Upon allowance of the foregoing subject matter, rejoinder of the remaining claims, i.e. method claims 7 (Group IV) and 14 (Group VI) is requested per MPEP § 821.04 (rejoinder).

Reformation of the Restriction Requirement and favorable action on the merits is now requested.

Respectfully submitted,

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April 28, 2006

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